

REMARKS

By the present amendment, Applicant has amended Claims 1-4. Claims 1-4 remain pending in the present application. Claim 1 is an independent claim.

In the recent Office Action the Examiner rejected Claims 1, 3, and 4 under 35 U.S.C. § 102(b) as being anticipated by Hart. Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McNeil either alone or in view of Toms. Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Egan in view of Casillan.

Applicant has amended the claims to recite that the invention "consists" of only a magnetic layer and a rubberized layer, i.e. Applicant has closed the claim to additional elements in the invention. The Hart invention includes at least a nylon fabric, an elongated resilient member, an elongated thin plastic member, and two magnetic strips. These elements are precluded by the instant claim language.

Further, it is seen that the two magnetic strips of the Hart reference do not constitute a magnetic layer. It is respectfully submitted that the instant invention is patentable over the Hart reference.

The present claims, as newly amended, also define over the McNeil invention. The McNeil invention includes a nylon cover,

which is precluded by the closed "consisting of" language in the instant claims.

Further, as to the combination of McNeil with Toms, it is noted that these inventions are directed to different problems and fields of endeavor. Applicant respectfully notes that one would not have been motivated to incorporate the teaching from a patent showing an invention to protect the human body into an invention for protecting a vehicle. Such non-analogous references would not be available to the skilled artisan on his "workshop walls". See In re Winslow, 151 USPQ 48 (CCPA 1966).

The Examiner also combines non-analogous references by modifying Egan with Casillan. One of ordinary skill in the art would not look to a diving platform to modify a bath mat. It is submitted that this combination of references is not appropriate and is based on impermissible hindsight. It is impermissible hindsight to use the claim as a frame and the prior art references as a mosaic to piece together a facsimile of the invention. W.L. Gore & Associates v. Garlock, Inc., 220 USPQ 303, 312 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Furthermore, even if the Egan/Casillan combination were appropriate, the "consisting of" language of the instant claims precludes the multiple layers (upper, adhesive, intermediate, adhesive, and magnetized) of Egan.

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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